

amendments, but locked in is the Brown amendment and the Tester amendment, as I outlined.

I have spoken to Senator HARKIN. He, of course, is in touch often with Senator CHAMBLISS. There is every possibility we could finish this bill tomorrow. As everyone knows, we have some votes in the morning on the Dorgan-Grassley amendment and on cloture on the Energy bill.

After that, we will have to see what happens and try to get back to this bill as quickly as we can.

The PRESIDING OFFICER. Is there objection?

Mr. CHAMBLISS. Mr. President, reserving the right to object, if I could ask the distinguished majority leader to add the other unanimous consent request we have agreed to.

Mr. REID. Yes. I did not have that.

AMENDMENT NO. 3803 TO AMENDMENT NO. 3500

Mr. President, I ask unanimous consent that amendment No. 3803, which is at the desk, be considered and agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Without objection, it is so ordered.

The amendment (No. 3803) was agreed to, as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide for the tax treatment of horses, and for other purposes)

At the appropriate place, insert the following:

#### SEC. . ASSET TREATMENT OF HORSES.

(a) 3-YEAR DEPRECIATION FOR ALL RACE HORSES.—

(1) IN GENERAL.—Clause (i) of section 168(e)(3)(A) of the Internal Revenue Code of 1986 (relating to 3-year property) is amended to read as follows:

“(i) any race horse.”.

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service on or after the date of the enactment of this Act.

(b) REDUCTION OF HOLDING PERIOD TO 12 MONTHS FOR PURPOSES OF DETERMINING WHETHER HORSES ARE SECTION 1231 ASSETS.—

(1) IN GENERAL.—Subparagraph (A) of section 1231(b)(3) of the Internal Revenue Code of 1986 (relating to definition of livestock) is amended by striking “and horses”.

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

#### SEC. . ELIMINATION OF PRIVATE PAYMENT TEST FOR PROFESSIONAL SPORTS FACILITY BONDS.

(a) IN GENERAL.—Section 141(a) (defining private activity bond) is amended by adding at the end the following new flush sentence:

“In the case of any professional sports facility bond, paragraph (1) shall be applied without regard to subparagraph (B) thereof.”.

(b) PROFESSIONAL SPORTS FACILITY BOND DEFINED.—Section 141 is amended by adding at the end the following new subsection:

“(f) PROFESSIONAL SPORTS FACILITY BOND.—For purposes of subsection (a)—

“(1) IN GENERAL.—The term ‘professional sports facility bond’ means any bond issued as part of an issue any portion of the proceeds of which are to be used to provide a professional sports facility.

“(2) PROFESSIONAL SPORTS FACILITY.—The term ‘professional sports facility’ means real property and related improvements used, in

whole or in part, for professional sports, professional sports exhibitions, professional games, or professional training.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act, other than bonds with respect to which a resolution was issued by an issuer or conduit borrower before January 24, 2007.

The PRESIDING OFFICER. The majority leader is recognized.

#### ENERGY INDEPENDENCE AND SECURITY ACT OF 2007

Mr. REID. Mr. President, I ask that the Chair lay before the Senate the message from the House on H.R. 6.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the House agree to the amendments of the Senate to the bill (H.R. 6) entitled “An Act to reduce our Nation’s dependency on foreign oil by investing in clean, renewable, and alternative energy resources, promoting new emerging energy technologies, developing greater efficiency, and creating a Strategic Energy Efficiency and Renewables Reserve to invest in alternative energy, and for other purposes,” with amendments.

MOTION TO CONCUR WITH AMENDMENT NO. 3841

(Purpose: In the nature of a substitute.)

Mr. REID. Mr. President, I move to concur in the House amendment to the Senate amendment to the text with the amendment that is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to concur in the House amendment to the Senate amendment to the text of H.R. 6, with an amendment numbered 3841.

(The amendment is printed in today’s RECORD under “Text of Amendments.”)

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3842 TO AMENDMENT NO. 3841

Mr. REID. Mr. President, I have a second-degree amendment at the desk I wish to have reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3842 to amendment No. 3841.

The amendment is as follows:

At the end of the amendment add the following:

This section shall take effect one day after the date of this bill’s enactment.

#### CLOTURE MOTION

Mr. REID. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Reid motion to concur in the House amendment to the Senate amendment to the text with an amendment, with reference to H.R. 6, Energy.

Jeff Bingaman, Barbara Boxer, Ben Nelson, Dick Durbin, Debbie Stabenow, Kent Conrad, Maria Cantwell, Ken Salazar, Tom Carper, Joe Lieberman, Daniel K. Akaka, Daniel K. Inouye, Robert P. Casey, Jr., Mark Pryor, Dianne Feinstein, B.A. Mikulski, Sherrod Brown, Jim Webb.

Mr. REID. Mr. President, I ask unanimous consent that the live quorum under rule XXII be waived and that the Senate resume consideration of the farm bill, H.R. 2419.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FARM, NUTRITION, AND BIOENERGY ACT OF 2007—Continued

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, parliamentary inquiry: What is the order before the Senate at the present time?

AMENDMENT NO. 3596

The PRESIDING OFFICER. Under the previous order, 20 minutes of debate, evenly divided, on the Sessions amendment No. 3596.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I will attempt to complete my remarks in less than the 10 minutes I have.

MODIFICATION TO AMENDMENT NO. 3596

Mr. President, I ask unanimous consent that I be allowed to amend my amendment. We got a score today that indicated it would cost \$1 million over 10 years. This would be an offset for that. So I send this modification to the amendment to the desk and ask unanimous consent that I be allowed to amend the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, reserving the right to object, we have not seen the modification.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I renew my unanimous consent request that I be allowed to modify my amendment to allow for an offset for the \$1 million cost over 10 years.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The modification is as follows:

At the end of the amendment, add the following:

(j) OFFSET.—Notwithstanding any other provision of this Act or an amendment made

by this Act, for the period beginning on October 1, 2007, and ending on September 30, 2011, each amount provided to carry out administration for a program under this Act or an amendment made by this Act is reduced by an amount necessary to achieve a total reduction of \$1,000,000.

Mr. SESSIONS. Mr. President, I will try to be succinct.

Crop insurance is a critical part of farm policy in America. It is not working perfectly. A number of farmers do not like it and do not take it out. Many do take it out and are not happy with the way it works.

We spend a lot of money on it. The Federal Government contributes 58 percent of the premiums for crop insurance, totaling \$3.2 billion a year.

One of the goals of crop insurance was to eliminate ad hoc individual disaster relief bills when farm disasters occur. Yet, since 2002, we have averaged \$1.3 billion in additional disaster relief to agriculture. So it has not met that goal.

In 1999, the Alabama Farmers Federation, now affiliated with the National Farm Bureau, had a study of crop insurance. Farmers recommended—these were farmers—they recommended we adopt a system in which farmers, if they chose, could take the subsidy from the Federal Government, plus their own premium, and pay that into a farm disaster savings account and draw on that account if a disaster occurred—but only if they voluntarily chose to do so.

I have studied that. I believe it is a good policy. I talked to Secretary Johanns when he was Secretary of Agriculture a few months ago. He tells me he thought it would be particularly good if we moved forward in this way as a pilot program.

So I have offered this amendment which would call on the U.S. Department of Agriculture to create farm savings accounts for insurance purposes, which would allow the Federal contribution to Federal crop insurance to go into that account, along with the farmer's contribution, but only for 1 percent of the farmers in America. That would limit it to a number of 20,000. Then we would try it out and see how it works. I think it could work very well for quite a number of farmers; I don't know how many. It certainly will not eliminate the need for crop insurance. Most farmers, I am sure, would want to have crop insurance.

Under my amendment, farmers would have to have catastrophic insurance. Their crop insurance numbers would be a smaller amount to take care of the more routine financial losses that farmers incur. I think it is a good program. It has been thought out pretty carefully. We have worked with the Department of Agriculture, the Alabama Farm Bureau, the Farmers Federation. They support it strongly. The National Farm Bureau has not taken a position. So I think it is the kind of legislation we ought to consider, and I urge my colleagues to do so.

In a few years, we will see how it is working. If it is not working, so be it. If it is working, we might want to make it permanent. So I ask my colleagues to support this amendment.

I yield the floor, reserving the remainder of my time.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, we are constantly coming to the floor or going into committees and talking about the fact that when it comes to the complicated programs we deal with, it is critically important that Members, as well as our staffs, think outside the box and come up with new ideas, new concepts that make sense, where we can take bureaucratic programs and streamline them, make them better, make them easier, make them more, in this case, farmer friendly. For that reason I compliment the Senator from Alabama. I think he has come up with an excellent idea. It has the potential for providing something similar to an idea that was prevalent in the House several years ago that was proposed by a Congressman from Kansas, KENNY HULSHOF, and that was to create farm savings accounts that the farmer could use to take excess money in good years and put it, tax-free, into a savings account and save it for a time down the road where he knows he was going to have a tough year and he would have that money available. That is exactly something along the lines of what Senator SESSIONS is talking about. I do think it is a great concept.

The problem I have with the amendment right now is that we have had no hearings on it in the committee, and we are not sure of whether it can even be implemented as a part of this particular farm bill in conjunction with the crop insurance provisions that are in our bill. I have talked to my dear friend Senator SESSIONS. I have told him I regret I will have to vote against it, but a vote against it is not a vote against the concept or against the fact that he has now come in and has thought outside the box, and I think he has a very good concept that I would encourage the chairman to look at as we move in the next year into the implementation of this farm bill. Let's have some hearings. Let's get some economists, some crop insurance folks to think about it and see if we can't maybe even think about a stand-alone bill for it and not wait for the next farm bill.

So I think it has merit. I just think trying to incorporate it into this bill presents complexities that I don't think we can accommodate.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I join my colleague and concur in his remarks on the Sessions amendment. For a lot of subjects before us we get good ideas, interesting ideas that come up via amendments on bills. This isn't the first time it has happened. As Senator CHAMBLISS said, this idea has been

talked about, floated around for a while. Senator SESSIONS has perhaps focused it more than I have seen in the past on the savings account idea.

But I think Senator CHAMBLISS is right. This is a very complicated subject. It involves a lot of different considerations and as well as interactions with other programs in agriculture. I would just say to my friend from Alabama that I would, with Senator CHAMBLISS, be willing to have some hearings on this next year, and I invite the Senator to testify and bring some witnesses in, as Senator CHAMBLISS says, some agricultural economists, some agricultural producers, and see what this proposal would do. If it has legs, if it has some merit, we could move it.

Just because we pass a farm bill doesn't mean that our committee is dormant for 5 years. We will be holding hearings and working on legislation. The occupant of the chair, too, will be actively involved in a lot of those discussions next year as a valuable member of our committee.

So I would just say to the Senator from Alabama, I am going to join Senator CHAMBLISS in opposing the amendment. Not that I am absolutely, irrevocably opposed to it, but it is a little bit too much of a change on a bill now, without the kind of hearings and due diligence that we should apply to it. So I will oppose it. But I will say this to Senator SESSIONS: I look forward to having some hearings on it next year.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the chairman for his willingness to consider this. I do believe I have given a good bit of thought to it, and I have shared it with the committee for the last several or couple weeks. But at any rate, I urge my colleagues to support it, recognizing that it is a pilot program involving only 1 percent of the farmers in America, and from that pilot program, we may learn that we have a good program indeed. So I urge support for it.

I yield the floor, and I yield the remainder of my time.

The PRESIDING OFFICER. There is 5½ minutes remaining.

The Senator from Minnesota is recognized.

Ms. KLOBUCHAR. Mr. President, I am here to speak briefly on my amendment, which is amendment No. 3810. I am going to reserve most of my time for tomorrow because some of my colleagues want to address this bill.

Mr. President, America's farm safety net was created during the Great Depression. It was created to protect struggling family farmers from volatile prices and from volatile weather. I think the reasons for that safety net still remain today. That is why I am a strong supporter of this farm bill.

I believe there are some forward thinking provisions in this farm bill, including with regard to energy, cel-  
lulosic energy—something near and

dear to my heart. We have worked hard on those provisions. The permanent disaster relief is so important for the farmers in my State. I think the safety net that helped our farmers in the 2002 farm bill and allowed them to take risks and revitalize a lot of the areas in this country are good. That is why I support this farm bill.

But I also believe there is a need for reform in this farm bill. I believe the money that is set aside for a safety net for our farmers should be going to the hard-working farmers in this country and not to urban millionaires. When you look at what happened over the last few years, there are scandals. There are people who should not have gotten this money. There are art collectors in San Francisco and real estate developers in Florida. When we look at where the money went, I think we can conclude there are not a lot of farms in, say, the District of Columbia, where we stand today. Mr. President, \$3.1 million in farm payments went to the District of Columbia, \$4.2 million has gone to people living in Manhattan, and \$1 billion of taxpayer money for farm payments has gone to Beverly Hills 90210. The last time I checked, there is not a lot of farmland in those areas.

I believe we can fix this problem. As Senator DORGAN said today, if we don't fix it ourselves, someone is going to fix it for us. I believe the people who live in farm States have an obligation to make sure these programs are appropriate and that they are going to the right people.

That is why I am proud that in this last farm bill, as a member of the Agriculture Committee, we have included in this farm bill an end to the three-entitlement rule. We have eliminated it. It will cut down the abuse by applying payment limits strictly to individuals and married couples and to ending the practice of dividing farms into multiple corporations so they get multiple payments.

I also support the Dorgan-Grassley amendment that puts some sensible limits on the total number of subsidies. But also I believe it is very important that we put some reasonable limits on income eligibility.

Now, what we have here with our amendment is reasonable. Let me go through what the law is right now. Right now, the law, for full-time farmers, says if you get at least 75 percent of your income from farming, you have an unlimited amount of income and profit you can make, and you can still get Government subsidies. That is how it works. It says for part-time farmers, if you get \$2.45 million—you may just be an investor in Beverly Hills—you can still make up to \$2.5 million, and you get the subsidies. We know that with the budget problems this country is facing, we need to make some sensible reforms.

The President has proposed a \$200,000 limit on income for both part-time and full-time farmers. The House-passed

version has suggested a \$1 million limit on income for full-time farmers and a \$500,000 limit for part-time farmers. So it is more generous than the administration, but it is still a big change from what the current law is. Our Senate bill that came out of committee, unfortunately, still allows for unlimited income for full-time farmers, and then basically for part-time farmers ends up after a number of years at \$750,000.

What our amendment does, the Klobuchar-Durbin-Brown amendment—and we have a number of people on the other side of the aisle who are going to be supporting this as well, as well as the Department of Agriculture. It simply says for full-time farmers, if you make in profit \$750,000, at that point you are not going to get any more Government farm payments. Now, if you have a bad year, and disaster strikes and you go below that amount, you will be eligible for those payments. For part-time farmers, some of the investors, the people who are making less than 66 percent of their income from farming, if you make \$250,000, then, at that point, you are no longer eligible for these payments.

Now, I don't think this is something outrageous. I think this is good policy. When I think about the farmers in my State, the average income of a farmer is \$54,000. That is why as we look at this farm bill and what we want to do for the new and beginning farmers, we want to get more farmers involved in agriculture. We want to do more for nutrition, conservation, and most important to me, moving to this next generation of cellulosic ethanol, we have to acknowledge that at some point, multimillionaires who live in urban areas should not be getting these farm payments.

So I am going to reserve the remainder of my time for tomorrow because my colleagues want to address this issue. I think we will have a good debate. But I wanted to put it in people's minds tonight so they can go back and talk to their staffs about how important it is and how sensible it is to put some reasonable income limits on this farm bill. Right now, our Senate bill has no income limits for full-time farmers and goes all the way up to \$750,000 for part-time farmers. I believe we can do better and still strongly support the family farmers in this country. I support them. My State is sixth in the country for agriculture; No. 1 turkey producer in the country. We have a lot of corn. We have some great people who are revitalizing our State because of the hard work they did, and the 2002 farm bill helped them. We want to keep those strong reforms in place, keep the safety net in place, add the disaster relief, add the conservation focus, but we also want to have some reasonable reforms so the money goes where it should go, and that is to our hard-working farmers.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. First of all, I would like to take just a moment—we had an amendment No. 3530 which I think the committee has agreed to accept and will come to later, but I wanted to spend a moment talking about it.

Over the last 20 years, the U.S. Department of Agriculture has paid out \$1.1 billion to dead farmers. Forty percent of them have been dead over 7 years; 19 percent of them have been dead over 11 years. Yet they continued to pay them. I very much appreciate the chairman and ranking member for their consideration.

What this will do is to make USDA go back and say: If you haven't gotten your estate settled in 2 years, you have to be talking to us rather than us continuing to make farm payments to people who are no longer alive. I appreciate their acceptance of that amendment.

AMENDMENT NO. 3632

I wish to set aside the pending amendment and call up amendment No. 3632.

The PRESIDING OFFICER. The amendment is pending.

Mr. COBURN. Thank you, Mr. President. This is a fairly straightforward amendment. It fits with a lot of things they have done in this bill. This is about the EQIP program. This is about environmental capacity to save in terms of runoff, decrease load streams, and do a lot of things in terms of the environment, and the basic goals behind it are good. This amendment is very simple. All it says is that you ought to be a real farmer to get EQIP money.

You ought to get two-thirds of your money from agriculture before you are eligible for getting this money. Why is that a problem? The problem is that our real farmers are not getting the vast majority of the money; it is our nonfarmers. If you buy 160 acres, what the marketing guy says is: I have a way for you to refence this land and build a new pond, and it will increase the value and you can turn around and sell it, except the American taxpayers pay for 40 percent of the improvements on it. You never have to run a head of cattle on it; you never have to raise a crop on it. You can just invest in the land and qualify. That is not the intended purpose for EQIP or why we created it. I believe EQIP funds ought to go for what they are intended. What this does is take the doctor who is play-farming or play-ranching and using American taxpayer money to improve the value of his land so he can turn around in a year and a half and sell it and make money. It doesn't save us anything in terms of the intended purpose of EQIP.

All this says is that if you are a real farmer and you get two-thirds of your income from farming, agriculture, this would not apply to you. But if you are gaming the system, gaming EQIP to advantage yourself, and not as a person in production agriculture but as an investor in land or as a speculator in

land, you ought not to be able to use these moneys to increase the value. Fencing hardly improves the environment. Yet we spend money out of EQIP for farms and ranches that are small and are not owned by real farmers but gentlemen farmers who don't produce anything. Yet they go out and have fun on some land they own and they qualify. We ought not to be paying for that with American taxpayer money. It is straightforward. It says you ought to be a real farmer before we allow EQIP money to be used to improve the environmental conditions on your farm.

There is a marked increase in the demand for these EQIP dollars. We see pivots. We can markedly decrease water consumption if we have modern pivots. We help farmers to put them in. We use less water, get less runoff, and do more no-till farming. So the demand for the dollars associated with EQIP, the Environmental Quality Incentives Program, was designed for working farms and working ranches, not for the weekend farmer.

The Environmental Quality Incentive Program emerged as the most important USDA program providing financial assistance for conservation on working farms and ranches and is measured by the number of participants and acres under contract—the largest financial assistance conservation program in all of USDA. Yet we have real farmers and ranchers who cannot get enough help to make a difference when it comes to the environment.

I want real farmers who are really in it to produce agriculture to have this money available, and I don't want the American taxpayers paying for somebody else who has the money to do it already but is using their money to enhance the value of their property, and they are not real farmers, not real ranchers, they are not a vegetable farmer, they are not in production agriculture, they are not an orchard farmer, they are not in timber, but, in fact, they own 40 acres of timber, and therefore they qualify even though it is purely an investment and they have no intent to harvest a crop, but they are utilizing taxpayer money.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. SALAZAR). The Senator from Iowa has 10 minutes.

Mr. HARKIN. Mr. President, when I hear the Senator describe how the money is going out, of course it sounds bad. No one wants EQIP money going for doctors who buy a little bit of acreage and want to put in a pond and have a fishing hole. We don't want EQIP money going for that, and it should not go for that.

But the way the amendment is drafted, it just says two-thirds of your income has to be from farming before you can qualify for EQIP. The problem with that is there are a lot of young, beginning farmers who are farming, but they are not making enough money from the farm to sustain themselves,

and they and their spouse need to work at other jobs. They may have a night job and the spouse may have a job. Most of their income may not be from that farming venture, but the money they are earning is going into the farm and they are building up their farm asset base. I see this happening, and we don't want to discourage that. Those are the people who may need some EQIP money. They may need to build a fence for livestock production. That EQIP money ought to be there for them to do that. Maybe they are improving their land and they need a water-holding facility to provide livestock with water on an around-the-year basis. That happens in our State, and I am sure it happens in Oklahoma too. They may not be getting two-thirds of their income from farming for a while. Later, they may, as they build up their assets and become better farmers and they get more income from farming.

So according to the Economic Research Service data, this amendment would bar EQIP contracts for 71.2 percent of all producers who receive them in 2006. You cannot say that 71 percent of all those people are these rich doctors putting in a fence and putting their horses out there. That may be a small part of these contracts, but it seems to me you are going after a lot of people who deserve EQIP contracts to go after some who don't deserve them.

The farms that would still qualify under the Senator's amendment would tend to be relatively large farms—that is, with gross income on average over \$654,000. Again, these are the producers that have a greater ability to pay for conservation. I repeat: the larger farms, where the producers get more than two-thirds of their income from farming, average over \$654,000 in gross income. If you compare that to a beginning farmer, they would actually have more ability to pay for conservation on their own, but this amendment would hurt the younger farmers with lower incomes and second jobs to make ends meet.

As I said, I just think this kind of a shotgun approach isn't the way to go. I wish there were some way to refine it to get at the very problem the Senator spoke about.

Mr. COBURN. Will the Senator yield for a question?

Mr. HARKIN. Yes.

Mr. COBURN. If 72 percent of the people getting EQIP money today would not get the money, that means 72 percent of the people who are getting EQIP today get less than 66 percent of the money from agriculture. That is an even bigger problem. In fact, three quarters of the people who are eligible aren't primarily getting the vast majority of their income from agriculture. Yet we are sending three quarters of the money to those people. I see that as an even bigger problem.

Would the chairman work with me to try to figure out a way to exclude

those who are advantaging themselves and have no intention of working into an agriculture position as a lifestyle or as a primary vocation? Would he agree to work with me so we might come to a point where we can define the difference between those who are primarily interested in agriculture and building a young farm and excluding those who are using the American taxpayer money to improve the quality of their land so they can turn around and sell it?

Mr. HARKIN. I could not agree with the Senator more. When I hear what he says, the answer is, yes, I wish we could figure out how we do that. We have not done that, and we should do that.

On the 71 percent, that might sound alarming, but that says to me there are a lot of people out there farming who aren't making a lot of money on the farm. They do have some farm income, but think about it this way: people who may be bona fide farmers or ranchers, but they may have another business in town—maybe they are an elevator operator or something, but they are farmers.

I think we have to be very careful about this. I think there are a lot of these people in that 71 percent—I haven't looked at the breakdown—who are these younger farmers and have to have some off-farm income to help make ends meet or maybe they need farm income to put away for college savings or something.

Mr. COBURN. Will the chairman yield for another question?

Mr. HARKIN. Sure.

Mr. COBURN. Would the Senator think a certification as to intent by people who apply for EQIP that their primary vocation is either now or is intended to be agriculture would be a way in which we might accomplish the goal? I am willing to withdraw this amendment if we can work on that.

Mr. HARKIN. That sounds interesting.

Mr. COBURN. I don't want the small farmer to be excluded, but I think the amount of money going to nonfarmers is a lot greater than you think it is. It is not going to real farmers who have real needs and the vast majority of the acres where we are going to make the biggest difference on the environment. I ask if he would work with me between now and the time the bill comes out of conference to see if we cannot address that, and if he would do so, as well as the ranking member, I will ask unanimous consent to withdraw this amendment.

Mr. HARKIN. I give the Senator my word. I want the same thing he wants. It burns me up, too, to see some of these people who buy acres and they get EQIP money to put up a nice pond or a horse shed. I agree with him. Maybe we can get our staffs and get people to think about how we might fashion this to exclude those people from the EQIP program. I would love to see that happen.

Mr. CHAMBLISS. I say to the Senator from Oklahoma, also, he knows I sympathize with him on this issue. We talked about it. He talked to me about a couple of specific instances that are just wrong. I talked earlier today about as hard as we try to prohibit abuses that crop up in farm programs, we know they are there. Whatever we can do to close the loopholes, I would like to do it here. Obviously, I am happy to continue to work with the Senator from Oklahoma.

Mr. HARKIN. If the Senator will yield further, maybe the Senator is onto something in terms of intent or what they are doing, coupled with, perhaps, the productive capacity and what that land is actually producing on an annualized basis.

Mr. COBURN. I think we can work that out.

AMENDMENT NO. 3632, WITHDRAWN

I ask unanimous consent to withdraw my amendment, and I will work with the chairman and ranking member on this issue.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. COBURN. Mr. President, what is the pending business before the Senate? Is there a unanimous consent request as far as further amendments?

The PRESIDING OFFICER. Under the previous order, all time having expired on the two amendments that were being debated, the time now occurs for a vote on the Sessions amendment.

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Under the consent order, is it possible that a modification to the amendment be sent to the desk?

The PRESIDING OFFICER. The Senator will need further consent for that.

AMENDMENT NO. 3807, AS MODIFIED

Mr. COBURN. Mr. President, I ask unanimous consent to send to the desk a modification to my amendment No. 3807, as discussed with the chairman and ranking member.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, is as follows:

On page 1362, between lines 19 and 20, insert the following:

**SEC. 1107. EXPENDITURE OF CERTAIN FUNDS.**

None of the funds made available or authorized to be appropriated by this Act or an amendment made by this Act (including funds for any loan, grant, or payment under a contract) may be expended for any activity relating to the planning, construction, or maintenance of, travel to, or lodging at a golf course, or resort.

Strike section 6023.

Strike section 6025 and insert the following:

**SEC. 6025. HISTORIC BARN PRESERVATION.**

Section 379A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008o) is amended—

(1) in subsection (c)(4)—

(A) by striking “There are” and inserting the following:

“(A) IN GENERAL.—There are”; and

(B) by adding at the end the following:

“(B) LIMITATION.—If, at any time during the 2-year period preceding the date on which funds are made available to carry out this section, Congress has provided supplemental agricultural assistance to agricultural producers or the President has declared an agricultural-related emergency—

“(i) none of the funds made available to carry out this section shall be used for the program under this section; and

“(ii) the funds made available to carry out this section shall be—

“(I) used to carry out programs that address the agricultural emergencies identified by Congress or the President; or

“(II) returned to the Treasury of the United States for debt reduction to offset the costs of the emergency agricultural spending.”; and

(2) by adding at the end the following:

“(d) REPEAL.—If, during each of 5 consecutive fiscal years, Congress has provided supplemental agricultural assistance to agricultural producers or the President has declared an agricultural-related emergency, this section is repealed.”.

Mr. COBURN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, we have had Senator CHAMBLISS and Senator HARKIN working on a number of amendments. Senator COBURN is not requiring a vote on his amendment. It has been withdrawn. So tonight under the order before the Senate, we have one vote on the Sessions amendment. After that, there will be no more votes tonight. The first vote in the morning will be at 9:15. We are going to have to keep to the time schedule in the morning because we have four people anxious to go other places tomorrow.

AMENDMENT NO. 3596, AS MODIFIED

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3596, as modified, offered by the Senator from Alabama, Mr. SESSIONS.

Mr. SESSIONS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from New Jersey (Mr. MENENDEZ), and the Senator

from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. MENENDEZ) would vote “nay.”

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Mississippi (Mr. LOTT) and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 58, as follows:

[Rollcall Vote No. 423 Leg.]

**YEAS—35**

Alexander	Dole	Murkowski
Allard	Domenici	Nelson (FL)
Barrasso	Ensign	Sessions
Bunning	Enzi	Shelby
Burr	Graham	Snowe
Cantwell	Gregg	Specter
Casey	Inhofe	Sununu
Coburn	Kyl	Tester
Collins	Levin	Vitter
Corker	Lugar	Voinovich
Cornyn	Martinez	Warner
DeMint	McConnell	

**NAYS—58**

Akaka	Feingold	Mikulski
Baucus	Feinstein	Murray
Bayh	Grassley	Nelson (NE)
Bennett	Hagel	Pryor
Bingaman	Harkin	Reed
Bond	Hatch	Reid
Boxer	Hutchison	Roberts
Brown	Inouye	Rockefeller
Brownback	Isakson	Salazar
Byrd	Johnson	Sanders
Cardin	Kennedy	Schumer
Carper	Kerry	Smith
Chambliss	Klobuchar	Stabenow
Cochran	Kohl	Stevens
Coleman	Landrieu	Thune
Conrad	Lautenberg	Webb
Craig	Leahy	Whitehouse
Crapo	Lieberman	Wyden
Dorgan	Lincoln	
Durbin	McCaskill	

**NOT VOTING—7**

Biden	Lott	Obama
Clinton	McCain	
Dodd	Menendez	

The amendment (No. 3596), as modified, was rejected.

Mr. HARKIN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, we are making good progress. Senator CHAMBLISS and I have been working very hard today to get amendments up. I think we are down to just a few we will be voting on tomorrow, and we will do perhaps a little bit more work tonight. I would say to any Senator whose amendment is on the list who wants to debate it, we are here. They could debate the amendment tonight and get in order tomorrow. I have a couple of things I want to wrap up.

The PRESIDING OFFICER. The Senator is recognized.

AMENDMENT NO. 3830

Mr. HARKIN. I ask for regular order with respect to amendment No. 3830.

The PRESIDING OFFICER. The amendment is now pending.

AMENDMENT NO. 3844 TO AMENDMENT NO. 3830

Mr. HARKIN. Mr. President, I send an amendment to the desk.

Mr. CHAMBLISS. Mr. President, reserving the right to object—

Mr. HARKIN. It is just a second-degree.

Mr. CHAMBLISS. I withdraw my objection.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 3844 to amendment No. 3830.

(The amendment is printed in today's RECORD under "Text of Amendments.")

AMENDMENT NO. 3539

Mr. HARKIN. Mr. President, I call up amendment No. 3539. It is an amendment by Senator DURBIN, No. 3539. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is pending and without objection the amendment will be made the pending question.

AMENDMENT NO. 3845 TO AMENDMENT NO. 3539

Mr. HARKIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. KENNEDY, for himself and Mr. DURBIN, proposes an amendment numbered 3845 to amendment No. 3539.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. 1170. ACTION BY PRESIDENT AND CONGRESS BASED ON REPORT.**

(a) PRESIDENT.—Not later than 180 days after the date on which the Congressional Bipartisan Food Safety Commission established by section 11060(a)(1)(A) submits to the President and Congress the report required under section 11060(b)(3), the President shall—

(1) review the report; and

(2) submit to Congress proposed legislation based on the recommendations for statutory language contained in the report, together with an explanation of the differences, if any, between the recommendations for statutory language contained in the report and the proposed legislation.

(b) CONGRESS.—On receipt of the proposed legislation described in subsection (a), the appropriate committees of Congress may hold such hearings and carry out such other activities as are necessary for appropriate consideration of the recommendations for statutory language contained in the report and the proposed legislation.

(c) SENSE OF SENATE.—It is the sense of the Senate that—

(1) it is vital for Congress to provide to food safety agencies of the Federal Government, including the Department of Agriculture and the Food and Drug Administration, additional resources and direction with respect to ensuring the safety of the food supply of the United States;

(2) additional inspectors are required to improve the ability of the Federal Government to safeguard the food supply of the United States;

(3) because of the increasing volume of international trade in food products, the

Federal Government should give priority to entering into agreements with trading partners of the United States with respect to food safety; and

(4) based on the report of the Commission referred to in subsection (a) and the proposed legislation referred to in subsection (b), Congress should work toward a comprehensive legislative response to the issue of food safety.

Mr. DURBIN. Mr. President, I rise to speak in support of the pending amendment offered by friend and colleague Senator KENNEDY.

This is an amendment that would make important changes to America's food safety policy.

We clearly need to make a change. For far too long, we have gone without a comprehensive review of our food safety laws.

Ancient statutes remain on the books, standards have not been updated, budgets have atrophied, and consumers have suffered from food borne illness.

In 2007, the Government Accountability Office, GAO, added the food safety system to its "High Risk List" of government functions that pose a risk to the United States.

The designation follows an extensive series of GAO, National Academies of Science, and inspector general reports calling for major improvements in our food safety system.

This year alone, we have witnessed 48 recalls of contaminated products regulated by the U.S. Department of Agriculture, USDA, Food Safety Inspection Service, FSIS, and more than 150 recalls of contaminated products regulated by the Food and Drug Administration, FDA.

Included in these statistics are recalls of more than 3 years of production of certain brands of peanut butter tainted with salmonella, a full year of production of ground beef tainted with E. coli, and more than 100 brands of popular cat and dog food.

In the past 2 months alone, there have been recalls of 5 million units of frozen pizza and 1 million more pounds of beef tainted with E. coli.

According to the Centers for Disease Control and Prevention, CDC, there are approximately 76 million cases of food borne disease each year in the United States. While many of these cases are mild, CDC estimates that food borne illness causes 325,000 hospitalizations and 5,000 deaths each year.

The food industry is one of the most important sectors of the national economy, generating more than \$1 trillion in economic activity annually and employing millions of American workers.

Unfortunately, over the past several months, consumer confidence in the safety of our food supply has dropped precipitously, posing a risk to this sector of the economy.

According to the Food Marketing Institute's 2007 survey of consumer confidence, the number of consumers confident in the safety of supermarket food declined from 82 percent in 2006 to 66 percent today—the lowest point

since 1989. The same survey shows that consumer confidence in restaurant food is even lower, at 43 percent.

Although the United States continues to have one of the safest food supplies in the world, the authorities and standards we set and the investments in food safety we make are being surpassed by other major industrialized nations.

A significant portion of the responsibility for this trend rests with Congress. While other countries have updated their food safety laws to reflect best available science, technology, and practices, we have allowed our statutes to become dated and obsolete.

We have underfunded this critical government function.

It is alarming that the safety of our food supply depends on ancient statutes that were written to address vastly different food safety challenges.

The Federal Meat Inspection Act was passed in 1906 partly in response to Upton Sinclair's accounts of Chicago's meat packing plants in his novel "The Jungle."

There has been only one major review of our meat laws and that occurred 40 years ago.

The Poultry Products Inspection Act celebrates its 50th anniversary this year and the Egg Products Inspection Act is more than 35 years old.

The Federal Food, Drug, and Cosmetic Act was passed in 1938 and has never been comprehensively reauthorized.

This is the key statute used by the Food and Drug Administration to regulate about 80 percent of our food supply.

Since then, although our understanding of food borne illness, preventative measures, microbiology, sanitation practices, and industry best practices has been transformed by developments in science and technology, the core principles of these statutes remain in place.

Into this void has stepped an uncoordinated, irregular sweep of crises-specific legislation, such as the Infant Formula Act of 1980 and Import Milk Act, as well as dozens of regulatory efforts to improve the safety of specific products.

Agencies have faced legal challenges as to whether they have the authority to implement some of these regulations.

It is time that Congress stepped forward to exercise oversight and ensure that we comprehensively improve our food safety system.

That is why my colleague Senator KENNEDY and I are offering an amendment to the farm bill that would set a trajectory toward a comprehensive review of the laws that underpin our food safety system.

Although food safety is one of the most dynamic functions of the federal government and relies heavily on developments in science, technology, and best practices, there is no mechanism for Congress to regularly review developments and reauthorize the agencies that perform these tasks.



Already included in the bill we're considering is language that would create a Food Safety Commission, a mechanism for Congress, the administration, academia, industry, consumer groups, and others to work together on comprehensive food safety reform and recommend specific statutory language.

The Commission is tasked with studying the in our current system and making specific legislative recommendations to the President and Congress on how to improve our laws.

We have directed the Commission to do its work based on universally agreed upon principles—allocate resources according to risk, base policies on best available science, improve coordination of budgets and personnel.

This amendment goes further than that language. It directs the President to review these recommendations and findings and report his or her recommendations back to Congress in a timely fashion.

The language puts Congress on a track of holding hearings and moving such comprehensive food safety reform through the process.

Lastly, the language contains sense-of-the-Senate language that it is the policy of the U.S. Senate to provide our food safety functions with adequate resources, that we increase the number of inspectors looking at food shipments, and that it is vital for Congress to move forward with comprehensive food safety reform.

This amendment will compel the participation of all stakeholders in the Commission process and will compel Congress and the Administration to act on its recommendations.

I offer this amendment and ask for my colleagues to support this effort to modernize our food safety system.

Mr. HARKIN. I ask that the second-degree amendment be agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 3845) was agreed to.

Mr. HARKIN. I ask the amendment, No. 3539, as amended, be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment No. 3539, as amended, was agreed to.

#### CHESAPEAKE BAY WATERSHED CONSERVATION PROGRAM

Mr. CARDIN. Mr. President, I wish to engage the distinguished chairman and ranking member of the Agriculture Committee in a colloquy.

Mr. HARKIN. I am happy to yield to my friend from Maryland.

Mr. CHAMBLISS. I, too, am happy to engage my friend from Maryland in discussion.

Mr. CARDIN. Mr. Chairman, all of us who represent Chesapeake Bay watershed States in the Senate are grateful that the bill reported out by the Agriculture Committee recognizes the very serious challenge that we have with excess nutrients and sediments in the

bay. As I testified to your committee back in the spring, every year huge areas of the Chesapeake Bay and its tidal tributaries become "dead zones," which occur when there isn't enough dissolved oxygen for aquatic life to thrive. Not all the excess nutrients that create these dead zones come from agriculture, but a substantial part of them do. The Chesapeake Bay Watershed Conservation Program in your bill will go a long way in assisting farmers in our States implement projects to better manage their nutrient-rich runoff. The new program represents a significant part of the \$700 million annually that scientists and agricultural experts estimate is needed on the ground to bring the runoff to ecologically acceptable levels.

My question is just to clarify the intent of the committee regarding this new program. Am I correct in my understanding that, although the Chesapeake Bay Watershed Conservation Program uses EQIP authorities, it has its own funding stream and therefore will not reduce the normal EQIP allocations to Maryland and the other Chesapeake Bay watershed States?

Mr. HARKIN. That is correct, Senator. Section 2361 provides an additional funding stream totaling \$165 million from 2007 through 2012 to address the critical needs of the Chesapeake Bay. This funding is separate from EQIP and is not intended to offset funding allocated under that program.

Mr. CARDIN. I thank the chairman for that clarification. I would like to ask the distinguished ranking member, the same question. Is it your understanding that the legislation before us today provides a unique funding stream for the Chesapeake Bay Watershed Conservation Program without reducing the normal EQIP allocations to the Maryland and the other Chesapeake Bay watershed States?

Mr. CHAMBLISS. I am happy to confirm with the Senator from Maryland that he understands the provision correctly. The Chesapeake Bay Watershed Conservation Program is to be implemented by the NRCS in addition to EQIP or any other existing conservation program. The Chesapeake Bay basin is the watershed for our Nation's Capital and the Bay is a national treasure. The committee is providing this extraordinary support for this extraordinary watershed and its farmers.

Mr. CARDIN. I thank the chairman and distinguished ranking member for their clarifications. I invite both of my friends to join me in visiting the farms of the Chesapeake region in the coming year so they can see for themselves how effectively and enthusiastically these needed funds are being used to benefit both our farmers and our treasured Chesapeake Bay watershed.

Mr. AKAKA. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii is recognized.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 2462 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### VETERANS AFFAIRS

Mr. AKAKA. Mr. President, as chairman of the Committee on Veterans' Affairs I have tried to advance two pieces of legislation—the Veterans' Traumatic Brain Injury and Other Health Programs Improvement Act of 2007 and S. 1315, the Veterans Benefits Enhancement Act of 2007.

Once again, Members on the other side are objecting to moving forward with these bills—they are setting up a procedural roadblock. These bills deserve to be heard and debated and discussed, and I welcome that, but Republicans will not allow that to happen. Let me make that point again—we are only asking for debate. Not for the immediate passage of the bills that the Senate simply pass the bills as reported by the committee. Surely it is not too much to ask that the Senate be allowed to do its business.

Earlier today, the former ranking member of the committee, Senator LARRY CRAIG, made the latest objection for himself and for the Republican leadership.

This is new territory for a VA bill. When Senator CRAIG was chairman of the committee, he and I negotiated on a variety of legislative initiatives leading up to our markup but could not reach agreement on a number of matters. At the markup, I offered amendments on a number of the issues about which I had strong feelings. I did not, however, continue to pursue those matters on the floor. And I most assuredly did not do anything to block Senate consideration of the legislation that I had sought to amend. In fact, as ranking member, I worked with then-chairman CRAIG to gain passage of the legislation by unanimous consent.

There is much in S. 1233, the committee's omnibus VA health bill, that needs to be enacted, like an increase in the reimbursement rate for veterans who must travel long distances for VA care, and vital provisions to help veterans from becoming homeless. Never, in my memory, have we let a disagreement on one provision stand in the way of passing a legislative package, especially at such a critical time.

Senator CRAIG feels most strongly about allowing middle-income veterans to enroll for VA health care. In 2003, the Bush administration shut the doors to these veterans, and since that time, hundreds of thousands of veterans have been turned away. I want to be clear that these veterans are not asking for a free ride. Indeed, they will be required to make copayments for their care. What they are asking for is entry into the system. We estimate that 1.3 million veterans want this opportunity. And some in this body are standing in their way.